



Montana Legislative History

Chapter: 161 Session L: 2011

Bill Number: HB 391

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:

Local
Government

Hearing Date(s):

[2/17/2011](#)

Conference Committee

N/A

Senate

Committee: Local Government

Hearing Date(s):

[3/21/2011](#)

[3/23/2011](#) (Executive Action)

Compiler Notes

Compiled by: sg

Date: 8/23/2024

Notes:

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/08/11	Chapter Number Assigned				
03/31/11	(H) Transmitted to Governor				
03/30/11	(S) Signed by President				
03/30/11	(H) Signed by Speaker				
03/29/11	(C) Printed - Enrolled Version Available				
03/29/11	(H) Returned from Enrolling				
03/28/11	(H) Sent to Enrolling				
03/28/11	(S) Returned to House				
03/28/11	(S) 3rd Reading Concurred		36	14	
03/28/11	(C) Printed - New Version Available				
03/28/11	(S) Scheduled for 3rd Reading				
03/26/11	(C) Sponsors Engrossed				
03/26/11	(S) 2nd Reading Concurred		39	9	
03/26/11	(S) Scheduled for 2nd Reading				
03/23/11	(S) Committee Report--Bill Concurred	(S) Local Government			
03/23/11	(S) Committee Executive Action--Bill Concurred	(S) Local Government	6	0	
03/21/11	(S) Hearing	(S) Local Government			
03/02/11	(S) Referred to Committee	(S) Local Government			
03/02/11	(S) First Reading				
02/23/11	(H) Transmitted to Senate				
02/23/11	(H) 3rd Reading Passed		70	25	
02/23/11	(H) Scheduled for 3rd Reading				
02/22/11	(H) 2nd Reading Passed		68	31	
02/22/11	(H) Scheduled for 2nd Reading				
02/18/11	(H) Committee Report--Bill Passed	(H) Local Government			
02/17/11	(H) Committee Executive Action--Bill Passed	(H) Local Government	15	5	
02/17/11	(H) Hearing	(H) Local Government			
02/01/11	(C) Introduced Bill Text Available Electronically				
02/01/11	(H) Referred to Committee	(H) Local Government			

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
02/01/11	(H) First Reading				
02/01/11	(H) Introduced				
01/31/11	(C) Draft Delivered to Requester				
01/31/11	(C) Draft Ready for Delivery				
01/29/11	(C) Draft in Assembly/Executive Director Review				
01/28/11	(C) Draft in Final Drafter Review				
01/28/11	(C) Bill Draft Text Available Electronically				
01/28/11	(C) Draft in Input/Proofing				
01/27/11	(C) Draft to Drafter - Edit Review				
01/25/11	(C) Draft in Legal Review				
01/25/11	(C) Draft to Requester for Review				
12/31/10	(C) Draft Request Received				



AN ACT PROVIDING THAT THE POWER OF INITIATIVE DOES NOT EXTEND TO THE PRIORITIZATION OF THE ENFORCEMENT OF ANY STATE LAW BY A UNIT OF LOCAL GOVERNMENT; AND AMENDING SECTION 7-5-131, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-5-131, MCA, is amended to read:

"7-5-131. Right of initiative and referendum. (1) The powers of initiative and referendum are reserved to the electors of each local government. Resolutions and ordinances within the legislative jurisdiction and power of the governing body of the local government, except those set out in subsection (2), may be proposed or amended and prior resolutions and ordinances may be repealed in the manner provided in 7-5-132 through 7-5-137.

(2) The powers of initiative ~~shall~~ do not extend to the following:

- (a) the annual budget;
- (b) bond proceedings, except for ordinances authorizing bonds;
- (c) the establishment and collection of charges pledged for the payment of principal and interest on bonds; ~~or~~
- (d) the levy of special assessments pledged for the payment of principal and interest on bonds; or
- (e) the prioritization of the enforcement of any state law by a unit of local government."

- END -

I hereby certify that the within bill,
HB 0391, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 391

INTRODUCED BY T. BERRY

AN ACT PROVIDING THAT THE POWER OF INITIATIVE DOES NOT EXTEND TO THE PRIORITIZATION OF THE ENFORCEMENT OF ANY STATE LAW BY A UNIT OF LOCAL GOVERNMENT; AND AMENDING SECTION 7-5-131, MCA.

HOUSE BILL NO. 391

INTRODUCED BY T. BERRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE POWER OF INITIATIVE DOES NOT EXTEND TO THE PRIORITIZATION OF THE ENFORCEMENT OF ANY STATE LAW BY A UNIT OF LOCAL GOVERNMENT; AND AMENDING SECTION 7-5-131, MCA."

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- END -

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- (d) the levy of special assessments pledged for the payment of principal and interest on bonds; or
- (e) the prioritization of the enforcement of any state law by a unit of local government."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: Chair Gary MacLaren, on February 17, 2011 at 3:30 PM, in Room 172
Capitol

ROLL CALL

Members Present:

Rep. Gary MacLaren, Chair (R)
Rep. Michael (Mike) More, Vice Chair (R)
Rep. Michele Reinhart, Vice Chair (D)
Rep. Liz Bangerter (R)
Rep. Dick Barrett (D)
Rep. Bryce Bennett (D)
Rep. Tom Berry (R)
Rep. Edward Greef (R)
Rep. Kris Hansen (R)
Rep. Pat Ingraham (R)
Rep. James Knox (R)
Rep. Steve Lavin (R)
Rep. Sue Malek (D)
Rep. Mary McNally (D)
Rep. Jerry O'Neil (R)
Rep. Derek Skees (R)
Rep. Wayne Stahl (R)
Rep. Kathy Swanson (D)
Rep. Gordon Vance (R)

Members Excused: Rep. Matthew M. Rosendale Sr (R)

Members Absent: None

Staff Present: Helen Thigpen, Legislative Branch
Phoebe Williams, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 391, 2/10/2011; HB 430, 2/10/2011; HB 459, 2/10/2011; HB 494, 2/10/2011; HB 508, 2/10/2011; HB 510, 2/10/2011; HB 522, 2/10/2011; HB 538, 2/10/2011; HB 542, 2/10/2011; HB 546, 2/10/2011; HB 552, 2/10/2011; HB 575, 2/10/2011; HB 592, 2/10/2011

Executive Action: HB 391, HB 400, HB 403, HB 430, HB 459, HB 465, HB 494, HB 508, HB 510, HB 522, HB 538, HB 542, HB 546, HB 552, HB 575, HB 592, HB 380

HEARING ON HB 538

Opening Statement by Sponsor:

00:01:33 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 538, Providing for sale of bonds at public or private sale.

Proponents' Testimony:

00:02:30 Rep. Jesse O'Hara
00:02:58 Alec Hansen, Montana League of Cities and Towns
00:03:34 Dan Semmons
00:05:25 Steve White, Bozeman
00:05:39 Aaron Rudio, Great Falls
00:06:37 Harold Blattie Montana Association of Counties (MACo)
00:06:48 Gordon Morris, Lewis and Clark County

Opponents' Testimony: None

Informational Testimony:

00:07:09 Anna Miller, Department of Natural Resources

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:07:29 Rep. Peterson

HEARING ON HB 508

Opening Statement by Sponsor:

00:08:27 Rep. Mary McNally (D), HD 49, opened the hearing on HB 508, Require payment of partial salary to injured rural firefighter.

Proponents' Testimony:

00:11:14 Joseph Sands, Career Fire Fighters of Montana
00:13:26 Toby Ballard, Missoula Rural Fire District
EXHIBIT(lah39a01)
00:16:20 Bill Colwell, Fire Chief, Missoula Rural Fire District

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:17:21 Rep. Knox
00:18:47 Rep. Ingraham
00:18:54 Rep. O'Neil
00:18:59 Bill Colwell
00:19:17 Rep. O'Neil
00:19:34 Bill Colwell

Closing by Sponsor:

00:20:04 Rep McNalley

HEARING ON HB 552

Opening Statement by Sponsor:

00:20:56 Rep. Alan Hale (R), HD 77, opened the hearing on HB 552, Provide workers' comp to volunteer firefighters and EMS workers.

Proponents' Testimony:

00:22:19 Keith Wear, Jefferson City Fire Department
00:25:15 Bud Siderits, Jefferson City Fire Department
00:26:30 Pat McKelvey
00:27:47 DeDe Rhodes, Basin Volunteer Fire District

[EXHIBIT\(loh39a02\)](#)

[EXHIBIT\(loh39a03\)](#)

[EXHIBIT\(loh39a04\)](#)

00:30:58 Bruce Charles, Mineral County

00:33:51 David Cooper,

[EXHIBIT\(loh39a05\)](#)

00:34:13 Brett Greger

00:34:39 Susan Charles

Opponents' Testimony:

00:37:26 Nancy Butler, Montana State Fund

00:38:51 Bob Worthington, Montana Self Insurers Association

Informational Testimony: None

Questions from Committee Members and Responses:

00:40:10 Rep. Ingraham
00:40:52 Bud Siderits
00:41:42 Rep. Berry
00:42:27 Rep. Hale
00:42:36 DeDe Rhodes
00:42:59 Rep. McNally
00:43:28 Nancy Butler
00:44:40 Rep. Malek
00:45:06 Bruce. Charles
00:47:10 Rep. Malek

00:47:25 Bruce Charles
00:47:40 Rep. Malek
00:47:44 Bruce Charles

Closing by Sponsor:

00:48:22 Rep. Hale

HEARING ON HB 391

Opening Statement by Sponsor:

00:49:42 Rep. Tom Berry (R), HD 45, opened the hearing on HB 391, Prohibit local initiative from establishing priority of enforcement of state law.

Proponents' Testimony:

00:50:43 Fred VanValkenburg

EXHIBIT(loh39a06)

00:55:45 Jim Smith, Sheriffs and Peace Officers Association

00:56:35 Larry Epstein, Montana Chiefs of Police and Police Protective Association

00:57:02 Mike Batista, Department of Justice

Opponents' Testimony:

00:57:44 Cynthia Wolken

EXHIBIT(loh39a07)

00:59:42 Mike Fellows

01:00:31 Rep. Ellie Hill

Informational Testimony: None

Questions from Committee Members and Responses:

01:02:35 Rep. Hansen
01:03:08 Fred VanValkenburg
01:04:10 Rep. Moore
01:04:29 Fred VanValkenburg
01:04:35 Rep. Moore
01:04:42 Fred VanValkenburg
01:04:58 Rep. MacLaren
01:05:15 Rep. Malek
01:05:56 Fred VanValkenburg
01:06:41 Rep. Malek
01:07:28 Fred VanValkenburg
01:08:02 Rep. Bennett
01:08:24 Rep. Berry
01:08:38 Rep. Barrett
01:09:09 Fred VanValkenburg
01:09:47 Rep. Malek
01:10:18 Rep. MacLaren

Closing by Sponsor:

01:10:28 Rep. Berry

HEARING ON HB 430

Opening Statement by Sponsor:

01:11:05 Rep. Cleve Loney (R), HD 25, opened the hearing on HB 430, Revise laws regarding administration of conservation districts.

Proponents' Testimony:

01:13:37 Gayla Wortman, Cascade County Conservation District

EXHIBIT(lah39a08)

01:13:38 Rep. Rosendale joined meeting.

01:18:47 John Chase Cascade

01:19:15 Alan Rollo

01:19:39 Jeff Tiberi

Opponents' Testimony: None

Informational Testimony:

01:00:15 Laurie Zeller, Department of Natural Resources

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:20:35 Rep. Loney

HEARING ON HB 459

Opening Statement by Sponsor:

01:21:08 Rep. Mark Blasdel (R), HD 10, opened the hearing on HB 459, Provide volunteer exemption of liability to county government.

Proponents' Testimony:

01:22:50 Harold Blattie, MACo

01:23:33 Jeff Tiberi

01:23:53 Gayla Wortman

01:24:05 Alan Rollo

Opponents' Testimony:

01:24:34 Al Smith, Montana Trial Lawyers Association

Informational Testimony: None

Questions from Committee Members and Responses:

01:27:14 Rep. Barrett

01:27:55 Rep. Blasdel

01:28:29 Rep. Hansen

01:28:55 Al Smith

01:29:33 Rep. Hansen

01:30:05 Harold Blattie

01:30:50 Rep. O'Neil

01:31:00 Rep. Blasdel

01:31:46 Rep. O'Neil
01:31:53 Rep. Blasdel
01:31:59 Rep. Barrett
01:32:28 Al Smith
01:33:21 Rep. Barrett
01:33:38 Al Smith

Closing by Sponsor:

01:34:07 Rep. Blasdel

HEARING ON HB 494

Opening Statement by Sponsor:

01:35:06 Rep. Champ Edmunds (R), HD 100, opened the hearing on HB 494, Revise laws relating to subdivision exemptions.

EXHIBIT(loh39a09)

Proponents' Testimony:

01:37:16 Sterling Miller

EXHIBIT(loh39a10)

EXHIBIT(loh39a11)

01:41:43 Suzanne Miller

EXHIBIT(loh39a12)

01:44:10 Kathryn Cotnoir

01:45:49 Glenn Oppell, Montana Association of Realtors

EXHIBIT(loh39a13)

01:46:34 John MacDonald, City of Missoula

01:47:13 Kim Chambers

01:49:05 Terry Nelson

01:50:30 Dustin Stewart, Montana Building Industry Association

01:51:04 Ken Jenkins

01:52:27 Joe Roberts Montana Association of Registered Land Surveyors

01:52:43 Mike Fellows

01:53:18 Brett George

EXHIBIT(loh39a14)

EXHIBIT(loh39a15)

Opponents' Testimony:

01:55:33 Tara DePuy

Informational Testimony:

01:57:50 Linda Stahl, Montana Association of Planners

Questions from Committee Members and Responses:

02:03:55 Rep. Reinhart

02:04:17 Tara DePuy

02:05:22 Rep. Reinhart

02:05:55 Glenn Oppel

02:06:34 Rep. Reinhart

02:07:04 Glenn Oppel

02:07:30 Rep. Reinhart
02:07:57 Glenn Oppel
02:08:01 Rep. Reinhart
02:08:04 Glenn Oppel
02:08:13 Rep. Reinhart
02:08:33 Kim Chambers
02:08:40 Rep. Reinhart
02:08:51 Kim Chambers
02:09:04 Kim Chambers
02:09:34 Rep. Reinhart
02:09:38 Kim Chambers
02:09:49 Rep. Reinhart
02:09:57 Kim Chambers
02:10:01 Rep. Reinhart
02:10:09 Rep. Ingraham
02:10:42 Glen Oppel
02:11:04 Rep. Reinhart
02:11:52 Linda Stahl
02:12:34 Rep. Malek
02:13:02 Tara DePuy
02:13:12 Rep. Malek
02:13:35 Rep. Ingraham
02:13:49 Glen Oppel

Closing by Sponsor:

02:14:10 Rep. Edmunds

HEARING ON HB 510

Opening Statement by Sponsor:

02:15:48 Rep. James Knox (R), HD 47, opened the hearing on HB 510, Revise requirements for organizing a municipality - eliminate 3 mile rule.

Proponents' Testimony:

02:17:02 Mike Fellows

Opponents' Testimony:

02:17:36 Alec Hansen

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

02:17:53 Rep. Knox

HEARING ON HB 542

Opening Statement by Sponsor:

02:18:51 Rep. John Esp (R), HD 61, opened the hearing on HB 542, Revise subdivision and platting act.

Proponents' Testimony:

02:22:35 Glen Oppel

[EXHIBIT](#)(loh39a16)

02:26:31 George Lake

02:31:10 Buck Lake

02:32:10 Ruth Link

[EXHIBIT](#)(loh39a17)

02:33:20 Terry Nelson

[EXHIBIT](#)(loh39a18)

02:34:49 Ken Jenkins

02:37:35 Joe Roberts, Montana Association of Registered Land Surveyors

02:37:57 Kimberly Chambers

02:39:25 Dustin Stewart, Montana Building Association

Opponents' Testimony:

02:40:10 Stephanie Laporte

[EXHIBIT](#)(loh39a19)

02:44:14 Dick Thweatt, Montana Smart Growth Coalition

[EXHIBIT](#)(loh39a20)

02:47:32 Anne Hedges, Montana Environmental Center

02:49:04 Becky Weed

02:51:51 John MacDonald, City of Missoula

02:54:04 Tara DePuy

02:57:14 Linda Stahl, Montana Association of Planners

02:58:11 Janet Ellis, Montana Audubon

03:00:06 Jim Barngrover

Informational Testimony: None

Questions from Committee Members and Responses:

03:01:47 Rep. Skees

03:02:02 Kim Chambers

03:02:53 Rep. Barrett

03:04:00 Rep. Esp

03:04:49 Rep. Barrett

03:05:14 Rep. Esp

[EXHIBIT](#)(loh39a21)

03:05:21 Rep. Reinhart

03:05:40 Rep. Esp

03:06:25 Rep. Reinhart

03:07:02 Rep. Esp

03:07:22 Rep. Reinhart

03:07:43 Rep. Esp

03:08:13 Rep. Reinhart
 03:08:22 Rep. Esp
 03:08:32 Glen Oppel
 03:09:00 Rep. Reinhart
 03:09:34 Glen Oppel
 03:10:02 Rep. Reinhart
 03:10:19 Glen Oppel
 03:10:50 Rep. Reinhart
 03:11:21 Tara DePuy
 03:11:57 Rep. Reinhart
 03:12:12 Tara DePuy
 03:13:03 Rep. Reinhart
 03:13:06 Tara DePuy

Closing by Sponsor:

03:13:24 Rep. Esp

03:15:26 Recess

03:36:36 Reconvene

HEARING ON HB 522

Opening Statement by Sponsor:

03:37:01 Rep. Douglas (Doug) Kary (R), HD 48, opened the hearing on HB 522, Extend approval of subdivision application to mutually agreed upon time..

Proponents' Testimony:

03:38:01 Dustin Stewart, Montana Building Association
 03:39:45 Kimberly Chambers, Missoula, Montana
 03:41:02 Andy Skinner, Helena, Montana
 03:42:37 Glen Oppel, Montana Realtors Association
 03:42:50 Ken Jenkins
 03:43:52 Steve White, Gallatin County Commissioner
 03:45:19 Gordon Morris, Lewis and Clark County
 03:45:48 Joe Roberts, Montana Association of Registered Land Surveyors

Opponents' Testimony:

03:46:28 Anne Hedges, Montana Environmental Association
 03:47:32 Tara DePuy, Montana Association of Counties Land Use Attorney

Informational Testimony: None

Questions from Committee Members and Responses:

03:48:43 Rep. Reinhart
 03:49:33 Dustin Stewart
 03:50:15 Rep. Reinhart
 03:51:03 Dustin Stewart
 03:51:37 Rep. Reinhart
 03:51:48 Dustin Stewart
 03:52:23 Rep. Skees

03:52:41 Dustin Stewart

Closing by Sponsor:

03:53:41 Rep. Kary

HEARING ON HB 546

Opening Statement by Sponsor:

03:54:22 Rep. Bob Wagner (R), HD 71, opened the hearing on HB 546, Revise laws to prohibit local government competition with private sector.

Proponents' Testimony:

04:00:14 Ben Wagner

04:04:12 Riley Johnson, National Federation of Independent Businesses

04:05:56 Mike Fellows

Opponents' Testimony:

04:06:55 Dan Dennehy, Public Works Director, Butte Silver Bow

04:09:54 Bruce Evans

04:10:13 Linda Stahl, Montana Public Health Officials

04:11:30 Gordon Morris, Lewis and Clark County

04:12:01 Alec Hansen, Montana League of Cities and Towns

04:14:37 John MacDonald, City of Missoula

04:14:56 Greg Chilcott, Ravalli County

Informational Testimony:

04:17:17 Lana George

[EXHIBIT\(loh39a22\)](#)

Questions from Committee Members and Responses:

04:19:29 Rep. Skees

04:19:57 Dan Dennehy

04:20:26 Rep. Skees

04:20:46 Dan Dennehy

04:21:03 Rep. Skees

04:21:28 Linda Stahl

04:21:55 Rep. Skees

04:22:08 Linda Stahl

Closing by Sponsor:

04:22:45 Rep. Wagner

HEARING ON HB 575

Opening Statement by Sponsor:

04:27:35 Rep. Kris Hansen (R), HD 33, opened the hearing on HB 575, Generally revise annexation laws.

[EXHIBIT\(loh39a23\)](#)

Proponents' Testimony:

04:34:52 Alec Hansen
04:38:40 John MacDonald
04:39:23 Tara DePuy

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

04:40:10 Rep. Reinhart
04:40:29 Rep. Hansen
04:41:23 Rep. O'Neil
04:41:40 Alec Hansen

Closing by Sponsor:

04:42:39 Rep. Hansen

HEARING ON HB 592

Opening Statement by Sponsor:

04:43:48 Rep. Wayne Stahl (R), HD 35, opened the hearing on HB 592, Revise subdivision law - define tract of record - provide exemption from review.

Proponents' Testimony:

04:49:21 Mike Fellows

Opponents' Testimony:

04:49:48 Gordon Morris
04:50:56 Janet Ellis

EXHIBIT(loh39a24)

04:52:52 Anne Hedges, Montana Environmental Information Center

EXHIBIT(loh39a25)

04:58:19 Linda Stahl
04:58:33 Tara DePuy

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

04:59:28 Rep. Stahl

05:00:39 Recess
05:13:10 Reconvene

EXECUTIVE ACTION ON HB 373

05:13:43 Helen Thigpen
05:14:45 Rep. Reinhart
05:14:53 **Motion/Vote:** Rep. Reinhart moved that **HB 373 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 380

05:15:11 **Motion:** Rep. Reinhart moved that **HB 380 DO PASS**.

05:15:29 **Motion:** Rep. Reinhart moved that **HB 380 BE AMENDED**.
[**EXHIBIT**](#)(loh39a26)

05:15:52 Rep. Reinhart
05:16:17 Rep. MacLaren
05:16:28 Rep. Skees
05:16:32 Rep. Reinhart

05:16:52 **Vote:** Motion carried unanimously by voice vote.

05:17:00 **Motion/Vote:** Rep. Reinhart moved that **HB 380 DO PASS AS AMENDED**.
Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 400

05:18:08 Rep. MacLaren
[**EXHIBIT**](#)(loh39a27)

05:18:39 **Motion/Vote:** Rep. Reinhart moved that **HB 400 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 403

05:19:04 **Motion:** Rep. More moved that **HB 403 DO PASS**.

05:19:33 **Motion:** Rep. MacLaren moved that **HB 403 BE AMENDED**.
[**EXHIBIT**](#)(loh39a28)

Discussion:

05:20:22 Rep. MacLaren
05:21:01 Rep. O'Neil
05:21:23 Helen Thigpen
05:21:41 Rep. Stahl
05:21:48 Rep. MacLaren
05:22:05 Rep. Hansen

05:22:08 Rep. Moore
 05:22:32 Rep. Lavin
 05:22:46 Rep. MacLaren
 05:23:01 Glen Oppel
 05:23:18 Helen Thigpen
 05:23:48 Glen Oppel
 05:24:01 Helen Thigpen

05:24:31 **Vote:** Motion carried 15-5 by voice vote with Rep. Berry, Rep. Knox, Rep. More, Rep. O'Neil and Rep. Skees voting no.

05:25:02 **Motion:** Rep. More moved that **HB 403 DO PASS AS AMENDED.**

Discussion:

05:25:10 Rep. Rosendale
 05:25:35 Rep. Stahl
 05:26:36 Rep. MacLaren

05:26:41 **Vote:** Motion carried 15-5 by voice vote with Rep. Knox, Rep. Lavin, Rep. More, Rep. O'Neil and Rep. Skees voting no.

EXECUTIVE ACTION ON HB 465

05:28:04 Helena Thigpen
 05:28:15 Rep. Reinhart

05:28:57 **Motion:** Rep. More moved that **HB 465 DO PASS.**

05:29:09 **Substitute Motion/Vote:** Rep. Vance made a substitute motion that **HB 465 BE TABLED.** Substitute Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 592

05:30:00 **Motion:** Rep. Stahl moved that **HB 592 DO PASS.**

05:30:06 **Substitute Motion:** Rep. Reinhart moved that **HB 592 BE TABLED.**

Discussion:

05:30:11 Rep. MacLaren
 05:30:28 Rep. Stahl
 05:30:50 Rep. Bennett

05:31:05 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Barrett, Rep. Bennett, Rep. Greef, Rep. MacLaren, Rep. Malek, Rep. McNally, Rep. More, Rep. Reinhart and Rep. Swanson voting aye.

Discussion:

05:32:24 Rep. Knox
 05:32:56 Rep. Barrett

05:33:42 Rep. Vance
 05:34:12 Rep. MacLaren
 05:34:28 Rep. Moore
 05:35:38 Rep. Stahl
 05:35:57 Rep. Hansen
 05:36:06 Rep. MacLaren
 05:36:27 Helen Thigpen
 05:36:53 Rep. Hansen
 05:36:58 Helen Thigpen
 05:37:04 Rep. Vance
 05:37:24 Rep. MacLaren
 05:37:43 Helen Thigpen
 05:37:50 Rep. Malek
 05:37:57 Helen Thigpen
 05:38:13 Rep. Malek
 05:38:31 Helen Thigpen
 05:38:35 Rep. MacLaren
 05:38:52 Rep. Moore
 05:39:44 Rep. O'Neil

05:41:26 **Vote:** Motion failed 10-10 by roll call vote with Rep. Berry, Rep. Hansen, Rep. Ingraham, Rep. Knox, Rep. Lavin, Rep. O'Neil, Rep. Rosendale, Rep. Skees, Rep. Stahl and Rep. Vance voting aye.

EXECUTIVE ACTION ON HB 575

05:42:49 **Motion:** Rep. Hansen moved that **HB 575 DO PASS.**

05:43:05 **Motion/Vote:** Rep. Hansen moved that **HB 575 BE AMENDED.** Motion carried unanimously by voice vote.

05:43:29 **Motion/Vote:** Rep. Hansen moved that **HB 575 DO PASS AS AMENDED.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 546

05:44:06 **Motion:** Rep. More moved that **HB 546 DO PASS.**

Discussion:

05:44:19 Rep. McNalley
 05:45:00 Rep. Skees
 05:45:22 Rep. Barrett
 05:46:01 Rep. Hansen

05:46:45 **Vote:** Motion failed 5-15 by roll call vote with Rep. Hansen, Rep. Knox, Rep. O'Neil, Rep. Stahl and Rep. Vance voting aye.

05:48:03 **Motion/Vote:** Rep. Bangerter moved that **HB 546 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 522

05:48:41 **Motion:** Rep. More moved that **HB 522 DO PASS**.

Discussion:

05:48:54 Rep. Skees

05:49:29 Rep. MacLaren

05:49:45 Rep. Ingraham

05:50:20 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 542

05:50:50 **Motion:** Rep. More moved that **HB 542 DO PASS**.

Discussion:

05:50:59 Rep. Reinhart

05:52:31 Rep. Knox

05:53:09 Rep. Skees

05:54:03 Rep McNalley

05:54:44 Rep. Stahl

05:55:22 **Vote:** Motion carried 12-8 by roll call vote with Rep. Barrett, Rep. Bennett, Rep. Ingraham, Rep. MacLaren, Rep. Malek, Rep. McNally, Rep. Reinhart and Rep. Swanson voting no.

EXECUTIVE ACTION ON HB 510

05:56:56 **Motion/Vote:** Rep. Knox moved that **HB 510 BE TABLED**. Motion carried 19-1 by voice vote with Rep. O'Neil voting no.

EXECUTIVE ACTION ON HB 494

05:57:32 **Motion:** Rep. More moved that **HB 494 DO PASS**.

Discussion:

05:57:39 Rep. Reinhart

05:58:18 **Motion/Vote:** Rep. More moved that **HB 494 BE AMENDED**. Motion carried unanimously by voice vote.

05:58:35 **Motion:** Rep. More moved that **HB 494 DO PASS AS AMENDED**.

Discussion:

05:58:44 Rep. Ingraham
 05:59:26 Rep. Skees
 05:59:41 Rep. MacLaren
 06:00:17 Rep. Hansen
 06:00:23 Rep. Maclaren
 06:00:43 Rep. O'Neil
 06:01:06 Rep. Reinhart
 06:02:05 Rep. Moore
 06:02:38 Rep. Stahl

06:03:04 **Vote:** Motion carried 17-3 by roll call vote with Rep. Bennett, Rep. Reinhart and Rep. Swanson voting no.

EXECUTIVE ACTION ON HB 459

06:04:20 **Motion:** Rep. More moved that **HB 459 DO PASS.**

Discussion:

06:04:28 Helen Thigpen
 06:05:18 Rep. Reinhart
 06:05:36 Helen Thigpen
 06:05:50 Rep. Stahl

06:06:07 **Vote:** Motion carried 11-9 by roll call vote with Rep. Barrett, Rep. Bennett, Rep. Berry, Rep. Malek, Rep. McNally, Rep. O'Neil, Rep. Reinhart, Rep. Stahl and Rep. Swanson voting no.

EXECUTIVE ACTION ON HB 430

06:07:52 **Motion/Vote:** Rep. More moved that **HB 430 DO PASS.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 391

06:08:58 **Motion:** Rep. More moved that **HB 391 DO PASS.**

Discussion:

06:09:05 Rep. Lavin
 06:10:05 Rep. Barrett
 06:10:55 Rep. Bennett
 06:11:10 Rep. Lavin
 06:11:18 Rep. Bennett

06:11:56 **Vote:** Motion carried 15-5 by roll call vote with Rep. Barrett, Rep. Bennett, Rep. Malek, Rep. Reinhart and Rep. Swanson voting no.

EXECUTIVE ACTION ON HB 552

06:13:16 **Motion:** Rep. More moved that **HB 552 DO PASS.**

06:13:23 **Motion:** Rep. Skees moved that **HB 552 BE AMENDED.**
EXHIBIT(loh39a29)

Discussion:

06:14:03 Helen Thigpen

06:14:12 Rep. Skees

06:15:23 Rep. MacLaren

06:15:51 Rep Skees

06:15:55 **Substitute Motion/Vote:** Rep. More made a substitute motion that **HB 552 BE TABLED.** Substitute Motion carried 16-4 by voice vote with Rep. Bennett, Rep. McNally, Rep. O'Neil and Rep. Reinhart voting no.

EXECUTIVE ACTION ON HB 508

06:17:09 **Motion:** Rep. More moved that **HB 508 DO PASS.**

06:17:23 **Substitute Motion/Vote:** Rep. Knox made a substitute motion that **HB 508 BE TABLED.** Substitute Motion failed 5-15 by roll call vote with Rep. Knox, Rep. MacLaren, Rep. O'Neil, Rep. Rosendale and Rep. Stahl voting aye.

Discussion:

06:19:14 Rep. Knox

06:20:02 Rep. Skees

06:20:23 Rep. O'Neil

06:21:18 Rep. McNally

06:23:17 Rep. Lavin

06:23:31 Rep. Maclaren

06:23:42 Rep. Stahl

06:24:45 Rep. Hansen

06:25:15 Rep. MacLaren

06:25:40 Rep. McNally

06:26:23 **Vote:** Motion failed 10-10 by roll call vote with Rep. Bangerter, Rep. Barrett, Rep. Bennett, Rep. Berry, Rep. Lavin, Rep. MacLaren, Rep. Malek, Rep. McNally, Rep. More and Rep. Swanson voting aye.

EXECUTIVE ACTION ON HB 538

Motion/Vote: Rep. More moved that **HB 538 DO PASS.** Motion carried unanimously by voice vote.

ADJOURNMENT

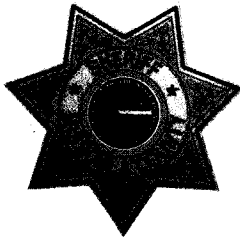
Adjournment: 06:29:20

Phoebe Williams, Secretary

pw

Additional Documents:

EXHIBIT([loh39aad.pdf](#))



Missoula County Sheriff's Dept
200 W. Broadway
Missoula, MT 59802

C.C. Ibsen ~~EXHIBIT~~ 6
SHERIFF DATE 2-17-11
HB 391

Missoula County Sheriff's
Department

(406) 258-3312

(406) 531-0301

e-mail: cibsen@co.missoula.mt.us

FAX: (406) 721-8575

16 Feb 11

Chairman Gary MacLaren
Honorable Members Of The House Local Government Committee

HB 391 is an appropriate and needed modification to current law, MCA 7-5-131(2).

I whole heartedly support HB 391.

Without such amendment it is not difficult to imagine the ability of a local special interest group to effectively change state law. Some localities have experienced such.

Please give your full support to HB 391, pass it out of committee and work to make it state law.

Thanking you in advance for your support.

Respectfully,


CC Ibsen

**Testimony of Cynthia L. Wolken, Esq.
Representing the Montana Chapter of the National Organization for the Reform of
Marijuana Laws (MT-NORML)**

**On House Bill 391
Before the House Local Government Committee of the
Montana State House of Representatives
February 17, 2011**

Please allow me to read the testimony of John Masterson:

Good afternoon. My name is John Masterson and I strongly oppose HB 391 and the underlying principles on which this legislation is based. I am the Chairman of the Board of Directors of MT-NORML. We advocate for the legalization of adult cannabis use, with reasonable restrictions, and with a comprehensive system of taxation and regulation.

I have been involved in cannabis-related initiatives and policy issues in Montana for years. I was involved in Missoula County's Initiative 2, passed in 2006, that made marijuana the lowest priority of law enforcement. Initiative 2 created a Community Oversight Committee to help oversee implementation. I am the Chair of the Committee, which has widespread community buy-in and support.

Initiative 2 passed with the overwhelming support of the citizens on Missoula County. It is puzzling that Mr. Van Valkenburg – an official elected by the people of Missoula County – is doing everything in his power to circumvent and overturn the will of the people. It is telling that not one of the legislative delegates in Missoula County is sponsoring this bill. Mr. Van Valkenburg had to find a legislator from Roundup to carry this legislation for him. Despite his best efforts, Mr. Van Valkenburg was unable to find a sponsor for his bill last session. Does it sound like this bill is the will of the people? This is an insult to the people of Missoula County and to the concept of representative democracy.

This legislation is also a slap in the face to local government and local control – something this committee often touts. The people of Missoula County do not want their taxpayer dollars spent investigating, prosecuting, and incarcerating misdemeanor possession of marijuana cases. It is my understanding that local taxpayer rights is something this committee also vehemently supports. Despite his protestations to the contrary, it is clear that Mr. Van Valkenburg abhors citizen use of cannabis – for medical purposes or otherwise. I would urge Mr. Van Valkenburg to run for the legislature again on this issue – and let the people of Missoula County decide whether to elect him on this platform.

For the above reasons, I respectfully request a no-vote on HB 391. I regret that I am not able to be here to answer questions, but am happy to be contacted by committee members seeking further clarification or insight on this legislation.

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: Chair Jon Sonju, on March 21, 2011 at 3:30 PM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Jon Sonju, Chairman (R)
Sen. Shannon Augare (D)
Sen. Edward Buttrey (R)
Sen. Lynda Moss (D)
Sen. Alan Olson (R)
Sen. Gene Vuckovich (D)

Members Excused:

Sen. Art Wittich, Vice Chairman (R)
Sen. Steven Gallus (D)
Sen. Bruce Tutvedt (R)

Members Absent: None

Staff Present:

Leanne Kurtz, Legislative Branch
Kirk Lundby, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 391, 3/15/2011; HB 522, 3/15/2011

HEARING ON HB 391

Opening Statement by Sponsor:

00:00:40 Rep. Tom Berry (R), HD 45, opened the hearing on HB 391, Prohibit local initiative from establishing priority of enforcement of state law.

Proponents' Testimony:

00:01:15 Fred Van Valkenburg, Attorney, Missoula County

[EXHIBIT\(los63a01\)](#)

[EXHIBIT\(los63a02\)](#)

00:01:39 Sen. Olson left the committee room

00:01:58 Sen. Gallus entered the committee room

00:06:25 Jim Smith, Montana Peace Officers Association (MPOA)

00:07:47 Larry Epstein, Montana County Attorneys Association (MCAA), Montana Police Protective Association (MPPA)

00:08:20 Sen. Buttrey left the committee room

00:08:38 Ali Bovingdon, representing the Department of Justice (DOJ)

Opponents' Testimony:

None

Informational Testimony: .

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

00:09:49 Rep. Berry

HEARING ON HB 522

Opening Statement by Sponsor:

00:10:51 Rep. Douglas (Doug) Kary (R), HD 48, opened the hearing on HB 522, Extend approval of subdivision application to mutually agreed upon time.

Proponents' Testimony:

00:11:55 Dustin Stewart, representing Montana Building Industry Association (MBIA)

[EXHIBIT\(los63a03\)](#)

00:14:26 Joe Roberts, representing Montana Association of Registered Land Surveyors (MARLS)

00:15:37 Mike Hughes

00:17:17 Glenn Oppel, representing Montana Association of Realtors (MAR)
00:17:32 Jack Walsh, representing Helena Building Industry Association (HBIA)
00:18:13 Harold Blattie, Executive Director, Montana Association of Counties (MACo)
00:19:56 Vice Chair Wittich entered the committee room

Opponents' Testimony:

00:21:38 Derf Johnson, Montana Environmental Information Center (MEIC)

Informational Testimony:

None

Questions from Committee Members and Responses:

00:22:22 Sen. Moss
00:22:46 Rep. Kary
00:23:34 Chairman Sonju
00:23:38 Derf Johnson, MEIC

Closing by Sponsor:

00:23:59 Rep. Kary

Discussion:

00:24:36 Chairman Sonju

ADJOURNMENT

Adjournment:
00:25:11

Kirk Lundby, Secretary

kl

Additional Documents:

EXHIBIT([los63aad.pdf](#))

RESOLUTION NO. 2007-011
ADOPTING AMENDMENTS TO
MISSOULA COUNTY INITIATIVE NO. 2

WHEREAS, the Missoula County Voters approved Initiative No. 2 on November 6, 2006;

WHEREAS, amendments to Initiative No. 2 were proposed by the Missoula Law Enforcement Community;

WHEREAS, a Public Hearing was held on March 21, 2007; and

WHEREAS, it appears to be in the public interest to make certain amendments to Initiative No. 2;

NOW, THEREFORE, BE IT RESOLVED, that Initiative No. 2 be and the same is hereby amended as shown on the attached "Amendments to Missoula County Initiative No. MCSO 2006-02."

DATED March 21, 1007.

SIGNED this ____ day of May, 2007.

BOARD OF COUNTY COMMISSIONERS

Barbara Evans
Barbara Evans, Chairman
Missoula County Commissioners

Jean Curtiss
Jean Curtiss
Missoula County Commissioner

OPPOSED
Bill Carey
Missoula County Commissioners

ATTEST:
Vickie M Zeier
Clerk and Recorder

APPROVED AS TO FORM AND CONTENT:

Michael W. Scherted
Deputy County Attorney

Amendments to Missoula County Initiative No. MCSO2006-02

The Board of County Commissioners of the County of Missoula, Montana ordain:

Section 1: TITLE

A Resolution Amending the Initiative to Alter Law Enforcement Priorities and Make Adult **Misdemeanor Possession of Marijuana** Offenses the Lowest Law Enforcement Priority in Missoula County.

Section 2: PURPOSE

The purpose of this resolution is:

- (1) To amend **Missoula County Initiative No. MCSO2006-02** so as to make investigations, citations, arrests, property seizures, and prosecutions for Adult **misdemeanor possession of** marijuana offenses Missoula County's lowest law enforcement priority; and
- (2) To transmit notification of the enactment of both the initiative as adopted by the voters and as amended by the Board of County Commissioners to state and federal elected officials who represent Missoula County;

Section 3: FINDINGS

WHEREAS the voters of Missoula County adopted Missoula County Initiative No. MCSO2006-02 at the November 6, 2006 general election by a margin of approximately 54% in favor to 46% opposed;

WHEREAS the Missoula County Attorney, the Missoula County Sheriff, the Missoula City Chief of Police and the Mayor of the City of Missoula have recommended that the Board of County Commissioners amend such Initiative to make it only applicable to misdemeanor possession of marijuana-related offenses for numerous reasons;

WHEREAS not amending the Initiative as adopted by the voters will result in certain serious conflicts between law enforcement agencies in both Missoula County and other jurisdictions;

WHEREAS possession of felony amounts of marijuana is an offense which merits normal law enforcement priority; and

WHEREAS it is the intent of the voters of Missoula County that some change be made in making some adult marijuana-related offenses the lowest priority for law enforcement;



Missoula County Vickie M Zeler RES

200712663

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05/22/2007 03:58P

Bk-797 Pg-1259

THEREFORE the Board of County Commissioners of Missoula County does hereby enact the following resolution amending the Missoula County Initiative No. MCSO2006-02, establishing the marijuana policy of the county.

Section 4: DEFINITIONS

For the purposes of this resolution, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Missoula County law enforcement officer" means a member of the Missoula County Sheriff's Department or any other county agency or department that engages in law enforcement activity.
- (3) "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than Adult misdemeanor possession of marijuana-related offenses should be a higher priority than all law enforcement activities related to adult misdemeanor possession of marijuana offenses, except for designated exceptions.
- (4) "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.
- (5) "Misdemeanor possession" means possession of less than sixty (60) grams of marijuana.
- (6) "Marijuana related" offenses include Possession of Drug Paraphernalia defined as "objects used, intended for use or designed for use in the ingesting, inhaling or otherwise introducing of marijuana into the human body."

Section 5: LOWEST LAW ENFORCEMENT AND PROSECUTORIAL PRIORITY

- (1) Missoula County law enforcement officers are encouraged to make law enforcement activity relating to Adult misdemeanor possession of marijuana offenses their lowest law enforcement priority. Law enforcement activities relating to Adult misdemeanor possession of marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of Adult misdemeanor possession of marijuana offenses.
- (2) The Missoula County public prosecutors are encouraged to make prosecution of Adult misdemeanor possession of marijuana offenses their lowest prosecutorial priority.
- (3) This lowest law enforcement and prosecutorial priority policy may not apply to the following:



200712663

Page: 3 of 7

05/22/2007 03:56P

Missoula County Vickie M Zeler RES

Bk-797 Pg-1239

(a) distribution or sale of marijuana to minors; possession, use, distribution, sale, or cultivation of marijuana by minors; distribution, sale, cultivation, or use of marijuana on public property; or driving under the influence of marijuana;

(b) marijuana offenses on private property, if the person in lawful possession of the private property requests police intervention; and

(c) distribution or sale of marijuana within 500 feet of any school ordinarily attended by children under 18 years of age.

(4) Missoula County law enforcement officers and other county employees should not accept formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from Adults for misdemeanor possession of marijuana offenses included in the lowest law enforcement priority policy. Missoula County law enforcement officers who are already deputized or commissioned by a federal agency ~~may~~ **should** not accept renewal of formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from Adults for misdemeanor possession of marijuana offenses included in the lowest law enforcement priority policy.

(5) The lowest law enforcement and prosecutorial priority policy includes cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from Adults for violations of misdemeanor possession of marijuana laws.

(6) It is recommended that Missoula County not accept any funds from any source, organization or individual, including federal funds or state funds, to the extent that such funds would be used to or are conditioned upon a requirement that the County of Missoula investigate, cite, arrest, prosecute, or seize property from Adults for misdemeanor possession of marijuana offenses included in the lowest law enforcement priority policy.

(7) Any new, amended, or renewed county contract with a law enforcement agency should reflect the priorities and reporting requirements outlined in this initiative, urging the agency and its agents to abide by the same lowest law enforcement priority policy and reporting requirements in Missoula County that are advocated for county law enforcement officers under this initiative.

Section 6: COMMUNITY OVERSIGHT

(1) A Community Oversight Committee shall be appointed to oversee the implementation of this resolution. The committee shall be formed and begin meeting within 100 days of the enactment of the initiative, even if some of its members have not been appointed. The committee will be composed of three county residents, one harm reduction advocate, two criminal defense attorneys, one civil liberties advocate, one medical marijuana patient, and one drug abuse and prevention counselor, each of whom shall be appointed by the

County Commission. If any committee member can no longer serve on the committee, the County Commission shall appoint a replacement committee member. Members of the committee shall serve as unpaid volunteers.

(2) Responsibilities of the committee shall include:

(a) Meeting at least quarterly, or more frequently as necessary;

(b) Ensuring timely implementation of this resolution, with the cooperation of the Missoula County Sheriff's Department and County Attorney in providing data needed to assess compliance;

(c) Collecting any grievances from individuals who believe they were arrested, cited, investigated, subjected to property seizures, or subjected to other law enforcement activity contrary to the spirit of the lowest law enforcement priority policy;

(d) Designing a supplemental report form by no later than seven months after the enactment of this initiative, which Missoula County law enforcement officers and prosecutors shall be encouraged to use to report all Adult marijuana arrests, citations, property seizures, prosecutions and instances of assisting in state or federal arrests, citations, property seizures and prosecutions for any Adult marijuana offense. The supplemental report form shall be designed to elicit sufficient details about each incident and the circumstances surrounding each incident for the committee to determine whether the Missoula County law enforcement officer's or officers' actions were consistent with the lowest law enforcement priority policy. The report shall request only such information that is not inconsistent with Montana law restricting dissemination of public criminal justice information (MCA §§44-5-301, et seq.) The form shall have questions that include but are not limited to:

(i) the time and date of the arrest, citation, or property seizure;

(ii) the location of the arrest, citation, or property seizure, including whether it was on public or private property;

(iii) how the officer came to encounter the marijuana, and whether the investigation began for a reason other than a possible marijuana violation; and

(iv) the race and age of the person who was arrested or cited or had his or her property seized.

(e) Requesting the presence at a committee meeting of any Missoula County law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. A Missoula County law enforcement officer's decision not to attend the committee meeting shall not be grounds for discipline;

- (f) Submitting written reports semi-annually to the Missoula County Commission on implementation of this resolution. The first report shall be at the first Missoula County Commission meeting after 12 months after the enactment of this resolution. The reports shall include but not be limited to:
- (i) the number of arrests, citations, investigations, property seizures, and instances of assistance to federal and state agencies or actors for Adult marijuana offenses by Missoula County law enforcement officers in Missoula County and the nature of these offenses;
 - (ii) the number of prosecutions for Adult marijuana offenses in Missoula County and the nature of these offenses;
 - (iii) information confirming whether Missoula County has participated in any other marijuana-related law enforcement activities with the state or federal government;
 - (iv) the estimated amount of time and money spent by Missoula County on law enforcement for Adult marijuana offenses, including but not limited to investigating, citing, arresting, and prosecuting Adult marijuana offenders, and on punishing Adult marijuana offenders with jail, imprisonment, probation, parole, and supervised release;
 - (v) all instances of arrests, citations, investigations, property seizures, and officers assisting in marijuana prosecutions or federal marijuana investigations and other activities that the committee believes violated the spirit of the lowest law enforcement priority policy; and
 - (vi) other information the committee deems necessary.
- (3) (a) The Missoula County Sheriff's Department and any other county agency whose agents have enforced any marijuana laws during the year prior to the report's filing may submit to the committee a written report on all Adult marijuana arrests, Adult marijuana citations, property seizures related to adult marijuana offenses, destruction of marijuana, and prosecutions for Adult marijuana offenses, including prosecutions undertaken by the Missoula County Attorney's Office. The report may be submitted on a semi-annual basis beginning seven months after the enactment of this initiative. These reports should include:
- (i) the number of infraction, misdemeanor, and felony arrests, citations, and prosecutions for Adult marijuana offenses;
 - (ii) the number of arrests, citations, and prosecutions for Adult marijuana offenses, categorized by the specific charge;
 - (iii) the locations of the arrests and citations; and
 - (iv) the breakdown of arrests and citations by race and age.

(b) Within five business days after each arrest, citation, or property seizure for an Adult marijuana offense, each arresting or citing officer and each officer making a property seizure is urged to submit to the committee a supplemental report. Within five business days after any state or federal arrest, citation, or property seizure for an Adult marijuana offense that a Missoula County law enforcement officer assisted with, each Missoula County law enforcement officer who assisted is urged to submit to the committee a supplemental report. Such reports shall be public records to the extent permitted by state law.

(c) If any arrest, citation, or property seizure for an Adult marijuana offense occurs before the committee has designed the supplemental form, the arresting or citing officer or the officer making a property seizure is encouraged to provide to the committee a written report containing the information discussed in part (2)(d) of section 6.

Section 7: NOTIFICATION OF FEDERAL AND STATE OFFICIALS

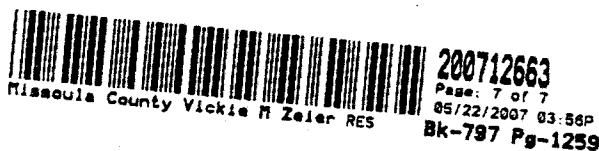
Beginning three months after the enactment of the initiative, the county clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to county voters' U.S. representative, both of Montana's U.S. senators, Missoula County voters' state senators and House members in the Montana State Legislature, the governor of Montana, and the president of the United States. This letter shall state that "The citizens of Missoula County have passed an initiative which was subsequently amended by the Board of County Commissioners to make misdemeanor possession of marijuana offenses the lowest law enforcement priority, to set up a citizens committee to monitor the effects of this policy, and to request that the federal and Montana state governments do the same." This duty shall be carried out annually until state and federal laws are changed accordingly.

Section 8: ENFORCEABILITY

All sections of this resolution that apply to Missoula County law enforcement officials are permissive. County law enforcement officials are encouraged to respect the provisions of this resolution, and to fully implement the procedures in this resolution designed to make Adult misdemeanor possession of marijuana offenses the lowest law enforcement priority in Missoula County and to cooperate with the Community Oversight Committee's work including the production of an annual report on the resolution's implementation.

Section 9: SEVERABILITY

If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of the resolution and the application of such provisions to other persons or circumstances shall not be affected thereby.



The Citizens of the County of Missoula, Montana ordain:

Section 1: TITLE

An Initiative to Alter Law Enforcement Priorities and Make Adult Marijuana Offenses the Lowest Law Enforcement Priority in Missoula County.

Section 2: PURPOSE

The purpose of this initiative is:

- (1) To make investigations, citations, arrests, property seizures, and prosecutions for adult marijuana offenses Missoula County's lowest law enforcement priority;
- (2) To transmit notification of the enactment of this initiative to state and federal elected officials who represent Missoula County; and
- (3) To create a Citizen Oversight Committee to oversee the implementation of this initiative.

Section 3: FINDINGS

WHEREAS decades of arresting and jailing millions of adults who use marijuana have failed to stop or reduce marijuana use, Missoula County should take a new approach;

WHEREAS each year Montana's state and local governments are estimated to spend over \$9 million enforcing marijuana laws;

WHEREAS in 2005, Montana's Board of Crime Control reported that in Missoula County alone there occurred 261 arrests involving marijuana;

WHEREAS Missoula County's law enforcement resources would be better spent preventing and investigating serious crimes like murder, rape, assault, robbery, burglary, and driving under the influence of alcohol and other drugs;

WHEREAS current marijuana policies continue to needlessly harm medical marijuana patients by restricting their access to their medicine; and

WHEREAS it is the intent of the voters of Missoula County that any economic analysis or fiscal impact statements conducted by Missoula County officials should include the savings associated with reduced costs on law enforcement, prosecution, incarceration and probation from making adult marijuana-related offenses the lowest priority for law enforcement;

THEREFORE the people of Missoula County do hereby enact the following initiative establishing the marijuana policy of the county.

Section 4: DEFINITIONS

For the purposes of this initiative, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Missoula County law enforcement officer" means a member of the Missoula County Sheriff's Department or any other county agency or department that engages in law enforcement activity.
- (3) "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than adult marijuana-related offenses should be a higher priority than all law enforcement activities related to adult marijuana offenses, except for designated exceptions.

(4) "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

Section 5: LOWEST LAW ENFORCEMENT AND PROSECUTORIAL PRIORITY

(1) Missoula County law enforcement officers are encouraged to make law enforcement activity relating to adult marijuana offenses their lowest law enforcement priority. Law enforcement activities relating to adult marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.

(2) The Missoula County public prosecutors are encouraged to make prosecution of adult marijuana offenses their lowest prosecutorial priority.

(3) This lowest law enforcement and prosecutorial priority policy may not apply to the following:

(a) distribution or sale of marijuana to minors; possession, use, distribution, sale, or cultivation of marijuana by minors; distribution, sale, cultivation, or use of marijuana on public property; or driving under the influence of marijuana;

(b) marijuana offenses on private property, if the person in lawful possession of the private property requests police intervention; and

(c) distribution or sale of marijuana within 500 feet of any school ordinarily attended by children under 18 years of age.

(4) Missoula County law enforcement officers and other county employees should not accept formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana offenses included in the lowest law enforcement priority policy. Missoula County law enforcement officers who are already deputized or commissioned by a federal agency may not accept renewal of formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana offenses included in the lowest law enforcement priority policy.

(5) The lowest law enforcement and prosecutorial priority policy includes cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from adults for violations of marijuana laws.

(6) It is recommended that Missoula County not accept any funds from any source, organization or individual, including federal funds or state funds, to the extent that such funds would be used to or are conditioned upon a requirement that the County of Missoula investigate, cite, arrest, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy.

(7) Any new, amended, or renewed county contract with a law enforcement agency should reflect the priorities and reporting requirements outlined in this initiative, urging the agency and its agents to abide by the same lowest law enforcement priority policy and reporting requirements in Missoula County that are advocated for county law enforcement officers under this initiative.

Section 6: COMMUNITY OVERSIGHT

(1) A Community Oversight Committee shall be appointed to oversee the implementation of this initiative. The committee shall be formed and begin meeting within 100 days of the enactment of this initiative, even if some of its members have not been appointed. The committee will be composed of three county residents, one harm reduction advocate, two criminal defense attorneys, one civil liberties advocate, one medical marijuana patient, and one drug abuse and prevention counselor, each of whom shall be appointed by the County Commission. If any committee member can no longer serve on the committee, the County Commission shall appoint a replacement committee member. Members of the committee shall serve as unpaid volunteers.

(2) Responsibilities of the committee shall include:

(a) Meeting at least quarterly, or more frequently as necessary;

(b) Ensuring timely implementation of this initiative, with the cooperation of the Missoula County Sheriff's Department and County Attorney in providing data needed to assess compliance;

(c) Collecting any grievances from individuals who believe they were arrested, cited, investigated, subjected to property seizures, or subjected to other law enforcement activity contrary to the spirit of the lowest law enforcement priority policy;

(d) Designing a supplemental report form by no later than seven months after the enactment of this initiative, which Missoula County law enforcement officers and prosecutors shall be encouraged to use to report all adult marijuana arrests, citations, property seizures, prosecutions and instances of assisting in state or federal arrests, citations, property seizures and prosecutions for any adult marijuana offense. The supplemental report form shall be designed to elicit sufficient details about each incident and the circumstances surrounding each incident for the committee to determine whether the Missoula County law enforcement officer's or officers' actions were consistent with the lowest law enforcement priority policy. The report shall request only such information that is not inconsistent with Montana law restricting dissemination of public criminal justice information (MCA §§44-5-301, et seq.) The form shall have questions that include but are not limited to:

(i) the time and date of the arrest, citation, or property seizure;

(ii) the location of the arrest, citation, or property seizure, including whether it was on public or private property;

(iii) how the officer came to encounter the marijuana, and whether the investigation began for a reason other than a possible marijuana violation; and

(iv) the race and age of the person who was arrested or cited or had his or her property seized.

(e) Requesting the presence at a committee meeting of any Missoula County law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. A Missoula County law enforcement officer's decision not to attend the committee meeting shall not be grounds for discipline;

(f) Submitting written reports semi-annually to the Missoula County Commission on implementation of this initiative. The first report shall be at the first Missoula County Commission meeting after 12 months after the enactment of this initiative. The reports shall include but not be limited to:

(i) the number of arrests, citations, investigations, property seizures, and instances of assistance to federal and state agencies or actors for adult marijuana offenses by Missoula County law enforcement officers in Missoula County and the nature of these offenses;

(ii) the number of prosecutions for adult marijuana offenses in Missoula County and the nature of these offenses;

(iii) information confirming whether Missoula County has participated in any other marijuana-related law enforcement activities with the state or federal government;

(iv) the estimated amount of time and money spent by Missoula County on law enforcement for adult marijuana offenses, including but not limited to investigating, citing, arresting, and prosecuting adult marijuana offenders, and on punishing adult marijuana offenders with jail, imprisonment, probation, parole, and supervised release;

(v) all instances of arrests, citations, investigations, property seizures, and officers assisting in marijuana prosecutions or federal marijuana investigations and other activities that the committee believes violated the spirit of the lowest law enforcement priority policy; and

(vi) other information the committee deems necessary.

(3) (a) The Missoula County Sheriff's Department and any other county agency whose agents have enforced any marijuana laws during the year prior to the report's filing may submit to the committee a written report on all adult marijuana arrests, adult marijuana citations, property seizures related to adult marijuana offenses, destruction of marijuana, and prosecutions for adult marijuana offenses, including prosecutions undertaken by the Missoula County Attorney's Office. The report may be submitted on a semi-annual basis beginning seven months after the enactment of this initiative. These reports should include:

(i) the number of infraction, misdemeanor, and felony arrests, citations, and prosecutions for adult marijuana offenses;

(ii) the number of arrests, citations, and prosecutions for adult marijuana offenses, categorized by the specific charge;

(iii) the locations of the arrests and citations; and

(iv) the breakdown of arrests and citations by race and age.

(b) Within five business days after each arrest, citation, or property seizure for an adult marijuana offense, each arresting or citing officer and each officer making a property seizure is urged to submit to the committee a supplemental report. Within five business days after any state or federal arrest, citation, or property seizure for an adult marijuana offense that a Missoula County law enforcement officer assisted with, each Missoula County law enforcement officer who assisted is urged to submit to the committee a supplemental report. Such reports shall be public records to the extent permitted by state law.

(c) If any arrest, citation, or property seizure for an adult marijuana offense occurs before the committee has designed the supplemental form, the arresting or citing officer or the officer making a property seizure is encouraged to provide to the committee a written report containing the information discussed in part (2)(d) of section 6.

Section 7: NOTIFICATION OF FEDERAL AND STATE OFFICIALS

Beginning three months after the enactment of this initiative, the county clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to county voters' U.S. representative, both of Montana's U.S. senators, Missoula County voters' state senators and House members in the Montana State Legislature, the governor of Montana, and the president of the United States. This letter shall state that "The citizens of Missoula County have passed an initiative to make adult marijuana offenses the lowest law enforcement priority, to set up a citizens committee to monitor the effects of this policy, and to request that the federal and Montana state governments do the same." This duty shall be carried out annually until state and federal laws are changed accordingly.

Section 8: ENFORCEABILITY

All sections of this initiative that apply to Missoula County law enforcement officials are permissive. County law enforcement officials are encouraged to respect the provisions of this initiative, and to fully implement the procedures in this initiative designed to make adult marijuana offenses the lowest law enforcement priority in Missoula County and to cooperate with the Community Oversight Committee's work including the production of an annual report on the initiative's implementation.

Section 9: SEVERABILITY

If any provision of this initiative or the application thereof to any person or circumstance is held invalid, the remainder of the initiative and the application of such provisions to other persons or circumstances shall not be affected thereby.

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: Chair Jon Sonju, on March 23, 2011 at 3:00 PM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Jon Sonju, Chairman (R)
Sen. Shannon Augare (D)
Sen. Edward Buttrey (R)
Sen. Steven Gallus (D)
Sen. Lynda Moss (D)
Sen. Alan Olson (R)

Members Excused:

Sen. Art Wittich, Vice Chairman (R)
Sen. Bruce Tutvedt (R)
Sen. Gene Vuckovich (D)

Members Absent:

None

Staff Present:

Leanne Kurtz, Legislative Branch
Kirk Lundby, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 41, 3/16/2011; HB 529, 3/16/2011
Executive Action: HB 41 Do Concur
HB 123 Do Concur
HB 391 Do Concur
HB 522 Do Concur As Amended
HB 529 Do Concur

EXECUTIVE ACTION ON HB 522

00:01:18 **Motion:** Sen. Buttrey moved that **HB 522 BE CONCURRED IN.**

00:01:29 **Motion/Vote:** Sen. Buttrey moved that **HB 522 BE AMENDED.** Motion carried 6-0 by voice vote of those present and voting.

EXHIBIT(los65a01)

00:02:03 **Motion:** Sen. Buttrey moved that **HB 522 BE CONCURRED IN AS AMENDED.**

Discussion:

00:02:14 Leanne Kurtz, Legislative Services Division (LSD)

00:02:45 **Vote:** Motion carried 6-0 by voice vote of those present and voting. Sen. Mowbray will carry the bill.

EXECUTIVE ACTION ON HB 391

00:03:34 **Motion:** Sen. Olson moved that **HB 391 BE CONCURRED IN.**

Discussion:

00:03:50 Sen. Olson

00:04:00 **Vote:** Motion carried 6-0 by voice vote of those present and voting. Sen. Olson will carry the bill.

EXECUTIVE ACTION ON HB 123

00:04:32 **Motion:** Sen. Augare moved that **HB 123 BE CONCURRED IN.**

Discussion:

00:04:43 Sen. Augare

00:05:10 Leanne Kurtz, LSD

00:06:02 **Vote:** Motion carried 6-0 by voice vote of those present and voting. Sen. Gallus will carry the bill.

EXECUTIVE ACTION ON HB 366

00:07:12 **Motion:** Sen. Buttrey moved that **HB 366 BE CONCURRED IN.**

00:07:22 **Motion:** Sen. Buttrey moved that **HB 366 BE AMENDED.**

EXHIBIT(los65a02)

Discussion:

00:07:46 Sen. Buttrey
00:09:11 Sen. Moss
00:09:19 Linda Stoll, representing Montana Association of Clerks and Recorders (MACR)
00:09:36 Sen. Olson
00:09:53 Sen. Buttrey
00:09:57 Sen. Vuckovich entered the committee room
00:10:37 Glenn Oppel, representing Montana Association of Realtors (MAR)
00:11:50 Sen. Vuckovich
00:12:13 Glenn Oppel, MAR
00:13:19 Sen. Augare
00:13:36 Chairman Sonju
00:13:43 Leanne Kurtz, LSD

00:14:05 **Vote:** Motion carried 5-4 by roll call vote with Sen. Augare, Sen. Gallus, Sen. Moss and Sen. Vuckovich voting no. Sen. Tutvedt and Sen. Wittich voted by proxy.

00:15:05 Sen. Buttrey withdraws motion that **HB 366 BE CONCURRED IN**

00:15:12 Chairman Sonju

HEARING ON HB 529

Opening Statement by Sponsor:

00:16:01 Rep. Wayne Stahl (R), HD 35, opened the hearing on HB 529, Revise certain document fees for mining claims.
00:16:29 Sen. Augare left the committee room

Proponents' Testimony:

00:16:56 Linda Stoll, MACR
00:17:56 Blanche McLure, Clerk and Recorder, Granite County

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

00:20:51 Rep. Stahl

HEARING ON HB 41

Opening Statement by Sponsor:

00:21:05 Rep. Wayne Stahl (R), HD 35, opened the hearing on HB 41, Amend law relating to designation of local government auditor.

Proponents' Testimony:

00:22:17 Paul Christofferson, Administrator, Accounting Division, Department of Administration (DOA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:23:08 Rep. Stahl

EXECUTIVE ACTION ON HB 41

00:23:23 **Motion/Vote:** Sen. Olson moved that **HB 41 BE CONCURRED IN**. Motion carried 6-0 by voice vote of those present and voting. Sen. Moss will carry the bill.

EXECUTIVE ACTION ON HB 529

00:23:50 **Motion/Vote:** Sen. Buttrey moved that **HB 529 BE CONCURRED IN**. Motion carried 6-0 by voice vote of those present and voting. Sen. Wittich will carry the bill.

Discussion:

00:24:59 Chairman Sonju

00:25:50 Sen. Buttrey

00:26:10 Vice Chair Wittich entered the committee room

EXECUTIVE ACTION ON HB 494

00:26:53 **Motion:** Sen. Wittich moved that **HB 494 BE CONCURRED IN**.

00:27:22 **Motion:** Sen. Wittich moved that **HB 494 BE AMENDED.**
EXHIBIT(los65a03)

Discussion:

00:27:37 Vice Chair Wittich
00:30:31 Sen. Moss
00:30:44 Vice Chair Wittich
00:30:48 Sen. Olson left the committee room
00:30:50 Leanne Kurtz, LSD
00:31:12 Sen. Buttrey
00:31:52 Harold Blattie, Executive Director, Montana Association of Counties (MACo)
00:32:53 Sen. Moss
00:33:04 Harold Blattie, MACo
00:33:25 Sen. Gallus
00:33:41 Vice Chair Wittich
00:35:03 Sen. Gallus
00:36:11 Vice Chair Wittich
00:37:47 Dustin Stewart, representing Montana Building Industry Association (MBIA)
00:38:28 Chairman Sonju

00:38:34 **Vote:** Motion failed 4-5 by roll call vote with Sen. Olson, Sen. Sonju, Sen. Tutvedt and Sen. Wittich voting aye. Sen. Augare, Sen. Olson and Sen. Tutvedt voted by proxy.

Discussion:

00:39:52 Leanne Kurtz, LSD

00:40:11 **Motion:** Sen. Gallus moved that **HB 494 BE AMENDED.**
EXHIBIT(los65a04)

Discussion:

00:40:40 Leanne Kurtz
00:41:46 Sen. Olson returned to committee meeting
00:42:45 Chairman Sonju

00:43:30 Sen. Gallus withdraws motion that **HB 494 BE AMENDED**

00:43:32 Vice Chair Wittich withdraws motion that **HB 494 BE CONCURRED IN**

Discussion:

00:43:35 Chairman Sonju
00:44:51 Vice Chair Wittich
00:45:25 Sen. Buttrey
00:45:51 Chairman Sonju

ADJOURNMENT

Adjournment:
00:47:56

Kirk Lundby, Secretary

kl

Additional Documents:

EXHIBIT([los65aad.pdf](#))